

1 Todd R. Ford,

2 Plaintiff,

3 v.

4 Anthony Michael Cicoletti,

5 Defendant.

6 No. C-09-00573 RMW

7 IDENTIFICATION OF ISSUES TO BE
8 ADDRESSED AT ARGUMENT

9 The case is set for further hearing on defendant's motion to dismiss on April 9, 2010 at 9:00

10 a.m. The court requests that counsel address the following questions at the hearing:

11 1. The papers and oral argument focused on subrogation and the question of whether Ford
12 was subrogated to the rights of the IRS and EDD. The critical question addressed was whether Ford
13 was precluded from subrogation because he was primarily liable (along with Cicoletti) for the debt.
14 Why was the focus on subrogation rather than contribution?

15 2. Assuming there had been no bankruptcy, would not Ford have a right to contribution
16 under 26 U.S.C. §6672(d)?
17

1 3. When did Ford acquire his right to contribution? When he paid more than 50% of the
2 tax? If so, then didn't Ford acquire his right to contribution post-discharge and, therefore, the debt is
3 not a discharged debt?

4 4. Tax debts are not dischargeable but do they have to be listed? What effect does the fact
5 that Cicoletti did not list the IRS obligation have, if any, on that obligation?

6 5. Does this case boil down to the effect of Cicoletti's discharge? If so, why shouldn't the
7 case be referred to the bankruptcy judge?

8
9 DATED: 4/5/10

Ronald M Whyte

RONALD M. WHYTE
United States District Judge

1 **Notice of this document has been electronically sent to:**

2 **Counsel for Plaintiff:**

3 Christopher K. Karic ckk@robinsonwood.com
4 Cyndi J. Claxton cjc@robinsonwood.com
5 Joshua Borger jjb@robinsonwood.com
6 Michael St. James ecf@stjames-law.com

7 **Counsel for Defendants:**

8 Kathryn S. Diemer kdiemer@diemerwhitman.com

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10 Counsel are responsible for distributing copies of this document to co-counsel that have not
11 registered for e-filing under the court's CM/ECF program.

12 **Dated:** 4/5/10

13 TER
14 Chambers of Judge Whyte